

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

**JIM R. HUNTER, Personal Representative of
the estate of Robert C. Ramsey, deceased,**

Plaintiff,

v.

No. 11-cv-0954 SMV

**ADMINISTRATOR OF THE LUNA COUNTY
DETENTION CENTER;
LUNA COUNTY DETENTION CENTER;
BOARD OF COUNTY COMMISSIONERS, LUNA COUNTY,
DEMING, NEW MEXICO;
LUNA COUNTY MANAGER;
JOHN DOES, unknown;
JANE DOES, unknown; and
OFFICERS OF LUNA COUNTY DETENTION CENTER,**

Defendants.

ORDER GRANTING MOTION TO DISMISS

THIS MATTER is before the Court on Defendants Luna County Detention Center and Luna County Manager's Amended Motion to Dismiss Defendants John and Jane Does, Officers of Luna County Detention Center, and Administrator of the Luna County Detention Center [Doc. 66]. Plaintiff has not filed a response. Accordingly, the motion is deemed unopposed.¹ See D.N.M.LR-Civ. 7.1(b). The Court also notes that more than 120 days have elapsed since this matter was initiated, and Plaintiff has not served the defendants in question. Thus, the claims against them are subject to dismissal pursuant to Fed. R. Civ. P. 4(m). The Court, being

¹ When a party fails to respond to a motion to dismiss, a court may not grant the motion based solely on the lack of response. *Issa v. Comp USA*, 354 F.3d 1174, 1177 (10th Cir. 2003). Instead, "the district court must still examine the allegations in the plaintiff's complaint and determine whether the plaintiff has stated a claim upon which relief can be granted." *Id.* at 1178. Thus, here, although Plaintiff failed to respond to the Motion, the Court will still consider its merit.

otherwise fully advised in the premises, finds that the motion is well-taken and should be granted.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that Defendants Luna County Detention Center and Luna County Manager's Amended Motion to Dismiss Defendants John and Jane Does, Officers of Luna County Detention Center, and Administrator of the Luna County Detention Center [Doc. 66] is hereby **GRANTED**, and all claims raised herein against Defendants John and Jane Does, Officers of Luna County Detention Center, and Administrator of the Luna County Detention Center are hereby **DISMISSED without prejudice**.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the caption shall be amended to reflect only the remaining Defendants, i.e., Luna County Detention Center and Luna County Manager. The parties and the Clerk of the Court are directed to make all future filings consistent with this ruling.

IT IS SO ORDERED.



STEPHAN M. VIDMAR
United States Magistrate Judge